

Application Serial No. 09/765,151
 Amendment dated March 18, 2005
 Reply to Office Action dated November 18, 2004

PATENT

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 3/18/05
 Ginger M. Griff Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No: 09/765,151
 Filed: January 17, 2001
 Applicant: Gilbert R. Gonzales et al.
 Title: COMBINATION AND METHOD INCLUDING A VISUAL MARKER
 FOR DETERMINING COMPLIANCE WITH A MEDICATION
 REGIMEN
 Art Unit: 3732
 Examiner: Anu Ramana
 Attorney Docket: UNSP-04 (now PEDI-27)

Cincinnati, Ohio 45202

March 18, 2005

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

In response to the Office Action dated November 18, 2004, in the above-
 identified application, Applicants respond as follows:

Amendments to the Claims are reflected in the Listing of Claims which
 begins on page 2 of this paper.

Remarks begin on page 10 of this paper.

06/14/2005 SDIRETA1 00000019 233000 09765151

01 FC:2251 60.00 DA

PAGE 2/20 * RCVD AT 3/18/2005 3:23:34 PM (Eastern Standard Time) * SVR:USPTO-EPXRF-1.0 * DNIS:8729308 * CSD:513 241 6234 * DURATION (min-se):20-20

Adjustment Date: 06/14/2005 SDIRETA1
 03/28/2005 GWOOTEN 00000001 233000 09765151
 01 FC:2252 225.00 CR

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 CFC
 03/18/05

WOOD, HERRON & EVANS, L.L.P.

BRUCE TITTEL
 DONALD F. FREI
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 KURT L. GROSSMAN
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 THOMAS W. HUMPHREY
 SCOTT A. STINEBRUNER
 DAVID H. BRINKMAN
 BEVERLY A. LYMAN, PH.D.
 KRISTI L. DAVIDSON

OF COUNSEL
 JOHN D. POFFENBERGER
 THOMAS W. FLYNN

2700 CAREW TOWER
 441 VINE STREET
 CINCINNATI, OHIO 45202-2817
 TELEPHONE: 513-241-2324
 FACSIMILE: 513-241-6234
 EMAIL: info@whpatent.com
 PATENT, TRADEMARK, COPYRIGHT
 AND UNFAIR COMPETITION LAW
 AND RELATED LITIGATION

EDMUND P. WOOD 1923-1988
 TRUMAN A. HERRON 1935-1976
 EDWARD B. EVANS 1936-1971

JOSEPH R. JORDAN
 C. RICHARD EBY
 DAVID E. PRUTCHARD

J. DWIGHT POFFENBERGER, JR.
 KATHRYN E. SMITH
 P. ANDREW BLATT, PH.D.
 DAVID E. JEFFERIES
 WILLIAM R. ALLEN, PH.D.
 JOHN PAUL DAVIS
 DOUGLAS A. SCHOLER
 BRETT A. SCHATZ
 DAVID W. DORTON
 SARAH OTTE GRABER
 STEVEN W. BENINTENDI, PH.D.
 RANDALL S. JACKSON, JR.

TECHNICAL ADVISORS
 HENRY M. LABODA, PH.D.

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May 6, 2005

FACSIMILE COVER SHEET

To: Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313

Fax: 703-872-9306

From: David E. Jefferies

Re: Request for Refund of Fee for
 Extension of Time
 Serial No: 09/765,151
 Applicant: Gilbert R. Gonzales et al.
 Filing Date: January 17, 2001
 Title: COMBINATION AND
 METHOD INCLUDING A VISUAL
 MARKER FOR DETERMINING
 COMPLIANCE WITH A
 MEDICATION REGIMEN
 Art Unit: 3751
 Examiner: Anu Ramana
 Conf. No.: 6299
 Our Ref: PEDI-27 (formerly UNSP-04)

Pages: 9 (including cover sheet)

MESSAGE/COMMENTS

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PATENT

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Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No: 09/765,151
 Applicant: Gilbert R. Gonzales et al.
 Filing Date: January 17, 2001
 Title: COMBINATION AND METHOD INCLUDING A VISUAL MARKER FOR DETERMINING COMPLIANCE WITH A MEDICATION REGIMENT
 Art Unit: 3751
 Examiner: Anu Ramana
 Conf. No.: 6299
 Atty. Docket: PEDI-27 (formerly UNSP-04)

Cincinnati, Ohio 45202

May 6, 2005

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

REQUEST FOR REFUND OF FEE FOR EXTENSION OF TIME

A response to Office Action dated November 18, 2004 was filed in the above-identified application on March 18, 2005. The Commissioner was authorized to charge our Deposit Account No. 23-3000 in the amount of \$60.00 for the small entity fee for a one-month extension of time as set forth in 37 C.F.R. § 1.17(a)(1). However, our Deposit Account No. 23-3000 was charged \$225.00 on March 28, 2005 for the small entity fee for a two-month extension of time.

This response to Office Action, with a one-month extension of time, was originally transmitted and received by the U.S. Patent and Trademark Office on March 18, 2005 (PTO auto reply attached as Exhibit A hereto). Thus, only a one-month

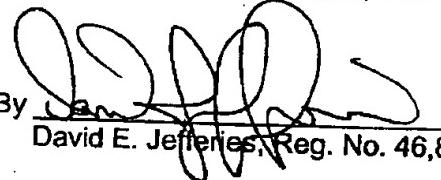
extension was required, and there is no fee due for an extra extension of time beyond the fee for the one-month extension of time previously authorized.

A copy of our deposit account statement is attached as Exhibit B. It is believed that the U.S. Patent and Trademark Office has erroneously charged our deposit account \$225.00 for a two-month extension of time. Therefore, Applicants are entitled to a refund in the amount of \$165.00, which equals the amount overcharged, under 37 C.F.R. § 1.26(a).

Please forward a refund check in the amount of \$165.00 to the undersigned at the address below at your earliest possible convenience.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By 

David E. Jefferies, Reg. No. 46,800

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
Cincinnati, Ohio 45202
(513) 241-2324 (voice)
(513) 421-7269 (facsimile)

MAY-06-2005 14:25

513 241 6234

513 241 6234 P.04

Exhibit A

MAY-06-2005 14:25

513 241 6234

Auto-reply fax to 513 241 6234 COMPANY:

513 241 6234 P.05



Auto-Reply Facsimile Transmission

TO: Fax Sender at 513 241 6234

Fax Information

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3/18/2005 3:23:34 PM [Eastern Standard Time]

69 (including cover page)

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| <p>Received Cover Page =====></p> | <p>MAR-18-2005 15:25 513 241 6234 513 241 6234 F.01</p> <p>WOOC, HERRON & EVANS, L.L.P.</p> <p>FAX COVER SHEET TO: Att. Dkt# 3732 RECEIVED: Attn: Ross Fax: 703-672-9306</p> <p>RE: Serial No. 09/765,151 FILED: January 17, 2001 Applicant: Gilbert R. Gonzalez et al. COMBINATION AND METHOD INCLUDING A VISUAL MARKER FOR DETERMINING COMPLIANCE WITH A MEDICATION REGIMEN Art. Unit: 3732 Examiner: Attn: Ross Attorney/Agent: UNSP-04 (now PEDI-27)</p> <p>Pages: 70 (including cover sheet)</p> <p>MESSAGE/COMMENTS</p> <p><small>The information contained in this document is provided for your use only. It is not to be distributed outside your organization. If you receive this document in error, please return it to us. We will take steps to ensure its destruction. If you have received this document in error, please contact us immediately. Thank you.</small></p> <p><small>For further information on filing a patent application, call 703-356-7326 or 703-356-7324. For further information on filing a trademark application, call 703-356-7326 and 703-356-7324. For further information on filing a copyright application, call 703-356-7326.</small></p> <p><small>PAGE AND FAXED AT 20050318 15:23:34 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:513 241 6234 * DURATION (mm:ss):02-58</small></p> |
|--|--|

MAY-06-2005 14:25

513 241 6234

513 241 6234 P.06

Auto-reply fax to 513 241 6234 COMPANY:

Auto-Reply Facsimile Transmission



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 Date Received: 3/18/2005 3:43:59 PM [Eastern Standard Time]
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| RECEIVED | MAY 10 2005 | 15:45 | 513 241 6234 | 513 241 6234 | P.01/02 |
| <p>WOOD, HERRON & EVANS, L.L.P.</p> <p>ENDCOURT TOWER 441 VINE STREET CINCINNATI, OHIO 45203-1917 TELEPHONE: (513) 564-0224 FACSIMILE: (513) 564-0226 EMAIL: mh@whe.com</p> <p>PATENT, TRADEMARK, COPYRIGHT AND LICENSE ATTORNEY AND RELATED ATTORNEY</p> <p>BILLING # 5000 P#51-100 TERESA M. HERRON 5000-100 CHRISTIAN R. FURIA 5000-101</p> <p>March 18, 2005</p> <p>FACSIMILE COVER SHEET</p> <p>To: Art Unit: 3732 Examiner: Ana Ramaña</p> <p>From: David H. Jeffries</p> <p>Fax: 703-872-9306</p> <p>Re: Serial No: 09/765,151 Filed: January 17, 2001 Applicant: Gilbert R. Gonzales et al. COMBINATION AND METHOD INCLUDING A VISUAL MARKER FOR DETERMINING COMPLIANCE WITH A MEDICATION REGIMEN Art Unit: 3732 Examiner: Ana Ramaña Attorney Docket: UNSP-04 (now PEDI-27)</p> <p>Pages: 2 (including cover sheet)</p> <p>MESSAGE/COMMENTS</p> <p><small>The information in this document contains neither recommendations nor conclusions of the U.S. Patent and Trademark Office. It is the recipient's responsibility to determine its suitability as a business decision. If the reader of this message is not the intended recipient or the employee or agent responsible for receiving it, it is hereby notified that any review, distribution or copy of this communication or taking any action based on it may be illegal. If this communication has been delivered in error, please notify us immediately by calling (513) 564-4236 and ask for the sender's name. OUR FAX NUMBER IS (513) 564-4236.</small></p> | | | | | |

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513 241 6234 P.07

Exhibit B

Deposit Account Statement

Requested Statement
 Month: Mar-05
 Deposit Account Number: 233000

| DATE | SEQ | POSTING | ATTORNEY | FEE | ATTORNEY |
|--------|--------|-----------------------------------|----------|------|----------------|
| | | REF TXT | DOCKET | CODE | |
| DATE | SEQ | NBR | | AMT | |
| 1-Mar | 39 | 10906640 NOR-1224 | | 8021 | \$40.00 KGR |
| 1-Mar | 142 | 10955325 SSIT-97 | | 9204 | (\$210.00) DFF |
| 1-Mar | 513 | 10433922 HAWE-49 | | 8021 | \$40.00 DFF |
| 1-Mar | 514 | 10624238 HAWE-51 | | 8021 | \$40.00 DFF |
| 2-Mar | 55 | 10459540 XCEN03 VALC- | | 8021 | \$40.00 WRA |
| 2-Mar | 100 | 29224090 333DES1-107 VALC- | | 1112 | \$100.00 DFF |
| 2-Mar | 101 | 29224090 333DES1-107 DEVOE- | | 1312 | \$130.00 DFF |
| 3-Mar | 37 | 10984025 14CP2 | | 2001 | \$245.00 CRE |
| 3-Mar | 71 | 29224281 RVI-671B-107 | | 1112 | \$100.00 DFF |
| 3-Mar | 72 | 29224281 RVI-671B-107 | | 1312 | \$130.00 DFF |
| 3-Mar | 75 | 29224280 RVI-671C-107 | | 1312 | \$100.00 DFF |
| 3-Mar | 77 | 29224280 RVI-671C-107 BARN | | 1464 | \$130.00 DFF |
| 3-Mar | 164 | 11068122 104US | | 1202 | \$550.00 WRA |
| 4-Mar | 1 | 9997990 IBM/193 | | 1251 | \$110.00 SAS |
| 4-Mar | 224 | 5233663 DSP-3 | | 8021 | \$40.00 DFF |
| 4-Mar | 225 | 5426706 DSP-3 | | 8021 | \$40.00 DFF |
| 4-Mar | 278 | 10922438 BARN-100A | | 8021 | \$40.00 CRE |
| 4-Mar | 332 | 29224318 RVI-671A-107 BILL 170 | | 2312 | \$15.00 DFF |
| 7-Mar | 3 | 76462043 122 STAN-T92- | | 7004 | (\$150.00) TRR |
| 7-Mar | 341 | 76600301 114 | | 7001 | \$325.00 KLG |
| 8-Mar | 5 | 10501887 KANIA-04 | | 2614 | \$86.00 BAL |
| 8-Mar | 101 | 76452987 J&C-235 | | 6003 | \$100.00 DSS |
| 9-Mar | 9 | 10718325 WUE-29 | | 1801 | \$790.00 TJB |
| 9-Mar | 20 | 10906406 NOR-1230 KMAC-194- | | 1201 | \$200.00 KGR |
| 9-Mar | 29 | 29224651 107 KMAC-194- | | 1112 | \$100.00 DFF |
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| 9-Mar | 344 | 11072119 BIOP-06US | | 1011 | \$300.00 KGR |
| 9-Mar | 345 | 11072119 BIOP-06US | | 1111 | \$500.00 KGR |
| 9-Mar | 346 | 11072119 BIOP-06US | | 1311 | \$200.00 KGR |
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| 9-Mar | 348 | 11072119 BIOP-06US | | 1202 | \$1,100.00 KGR |
| 10-Mar | 24 | 10990656 KMC311US | | 8021 | \$40.00 DFF |
| 10-Mar | 54 | 76632380 SATE-02-109 | | 6001 | \$750.00 DSS |
| 11-Mar | 13 | 11002164 LABV-9 PCT/US05/06 | | 8021 | \$40.00 CRE |
| 11-Mar | 60 857 | GMED-07WVO | | 1702 | \$296.00 KAS |

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| 11-Mar | 62 857 | GMED-07W0 | 1703 | \$364.00 KAS |
| | | PCT/US05/08 | | |
| 11-Mar | 63 857 | GMED-07W0 | 8007 | \$40.00 KAS |
| 14-Mar | 2 | 9878744 DDY / 46 | 1253 | \$950.00 WLJ |
| 14-Mar | 3 | 9878744 DDY / 46 | 1801 | \$770.00 WLJ |
| 14-Mar | 4 | 9878744 DDY / 46 | 1201 | \$172.00 WLJ |
| 14-Mar | 33 | 76632905 FSI-109A | 6001 | \$40.00 KGR |
| 14-Mar | 34 | 10906912 NOR-1226 | 1202 | \$150.00 KGR |
| 14-Mar | 35 | 10906912 NOR-1226 | 1311 | \$200.00 KGR |
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| 14-Mar | 55 | 76087963 1219 ROBI-17- | 8004 | \$300.00 DEP |
| 14-Mar | 56 | 76087963 1219 ROBI-17- | 8004 | \$450.00 DEP |
| 14-Mar | 57 | 76087963 1219 ROBI-17- | 6004 | \$150.00 DEP |
| 14-Mar | 58 | 76087963 1219 | 6005 | \$100.00 DEP |
| 15-Mar | 3 | 10083001 DDL/19 | 2201 | \$400.00 KRH |
| 18-Mar | 1 | 10452387 DPSI/ 04A | 1253 | \$1,020.00 DAS |
| 18-Mar | 25 | 10509344 | 1609 | \$730.00 |
| 18-Mar | 205 | 9492032 HILB-682 | 1504 | \$300.00 WLJ |
| 18-Mar | 265 | 1322196 L&P | 8521 | \$40.00 JDP |
| 18-Mar | 266 | 1325019 L&P-215 | 8522 | \$25.00 JDP |
| 21-Mar | 10 | 10000276 OPME/05 | 2202 | \$675.00 DHB |
| 21-Mar | 11 | 10000276 OPME/05 | 2201 | \$300.00 DHB |
| 21-Mar | 600 | 78590725 FLYA-05 | 7001 | \$325.00 TWH |
| 22-Mar | 1 | 10189060 HILB/456C3 | 1251 | \$120.00 WLJ |
| 22-Mar | 2 | 10189060 HILB/456C3 | 1814 | \$130.00 WLJ |
| 22-Mar | 4 | 10864941 LANT-C02DV | 2814 | \$65.00 KRH |
| 22-Mar | 5 | 10864941 LANT-C02DV | 2201 | \$200.00 KRH |
| 22-Mar | 191 | 2185957 MIDTF-392T2 | 8503 | \$16.00 TWF |
| 25-Mar | 179 | 11021198 PMAN/36 | 2051 | \$85.00 BAL |
| 28-Mar | 1 | 9765151 PEDI-27 | 2252 | \$225.00 DEJ |
| 28-Mar | 2 | 9765151 PEDI-27 | 2202 | \$25.00 DEJ |
| 28-Mar | 7 | 60640882 GYTR-27 | 8021 | \$40.00 CHL |
| 30-Mar | 1 | 10245178 POUR-15R | 1806 | \$180.00 KRH |
| 30-Mar | 159 | 10350612 PPO/11A | 2501 | \$700.00 DSS |

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